



# The Daily Whip

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**TUESDAY, MAY 18, 2004**

House Meets At...	Last Vote Predicted At...
<b>9:00 a.m.: Morning Hour</b> <b>10:00 a.m.: Legislative Business</b> <b>Unlimited "One Minutes"</b>	<b>7:00 p.m. – 8:00 p.m.</b>

## FLOOR SCHEDULE AND BILL SUMMARY

**H.Res. 645 - Rule providing for consideration of H.R. 2728, H.R. 2729, H.R. 2730, H.R. 2731, and H.R. 2432.** The Rules Committee has reported one Rule for the consideration of five separate bills: **H.R. 2728** - Occupational Safety and Health Small Business Day in Court Act of 2004 (Overturning OSHA Protections in Court Act) (*Rep. Norwood - Education & the Workforce*); **H.R. 2729** - Occupational Safety and Health Review Commission Efficiency Act of 2004 (Stacking the OSHA Commission Act) (*Rep. Norwood - Education & the Workforce*); **H.R. 2730** - Occupational Safety and Health Independent Review of OSHA Citations Act of 2004 (Overturning the Unanimous Supreme Court decision regarding the Review of OSHA Citations Act) (*Rep. Norwood - Education & the Workforce*); **H.R. 2731** - Occupational Safety and Health Small Employer Access to Justice Act of 2004 (Blocking Access to Justice by Requiring OSHA to Pay Attorney's Fee Act) (*Rep. Norwood - Education & the Workforce*); and **H.R. 2432** - Paperwork and Regulatory Improvements Act of 2003 (*Rep. Ose - Government Reform*).

Section 1 of the Rule provides for consideration of **H.R. 2728 under a closed rule** with no amendments; one hour of general debate; and one motion to recommit with or without instructions. Section 2 of the Rule provides for consideration of **H.R. 2729 under a closed rule** with no amendments; one hour of general debate; and one motion to recommit with or without instructions. Section 3 of the Rule provides for consideration of **H.R. 2730 under a closed rule** with no amendments; one hour of general debate; and one motion to recommit with or without instructions. Section 4 of the Rule provides for consideration of **H.R. 2731 under a closed rule** with no amendments; one hour of general debate; and one motion to recommit with or without instructions. Section 5 of the Rule provides for consideration of **H.R. 2432 under a structured rule** with one hour of general debate; makes in order two amendments (a manager's amendment to be offered by Rep. Ose, and an amendment by Reps. Waxman and Tierney); and provides one motion to recommit with or without instructions. Under the Rule, the five bills will be considered separately and then joined together after they are each voted on separately by the House.

**George Miller Motion to Instruct Conferees on H.R. 2660 - Labor-HHS Appropriations Act for FY04.** Although the FY04 omnibus appropriations bill included the FY04 Labor-HHS Appropriations bill, technically, that bill is still in conference and further motions to instruct are in order. Therefore, Democrats will instruct conferees to keep the Senate language to prohibit the use of funds to issue or enforce a regulation that would take overtime pay away from any employee who, under current regulations, is entitled to overtime pay. This language seeks to block the part of the regulations proposed by the Department of Labor that would make it easier for employers to reclassify workers as "white collar" employees who would be ineligible for overtime compensation. **Democrats are urged to VOTE YES.**

**H.R. 2728 - Occupational Safety and Health Small Business Day in Court Act of 2004 (Overturning OSHA Protections in Court Act) (Rep. Norwood - Education & the Workforce) (Subject to a Rule).** This bill amends current law to authorize the Occupational Safety and Health Review Commission to make exceptions to the 15-day deadline for employers to challenge OSHA citations if the employer's failure to meet this deadline is due to a "mistake, inadvertence, surprise, or excusable neglect." This bill weakens enforcement of workplace health and safety regulations and disrupts OSHA's ability to address workplace hazards in a timely manner. This bill was reported out of committee on a 24-20 party-line vote. **Democrats are urged to VOTE NO.**

**H.R. 2729 - Occupational Safety and Health Review Commission Efficiency Act of 2004 (Stacking the OSHA Commission Act) (Rep. Norwood - Education & the Workforce) (Subject to a Rule).** This bill amends current law to expand the Occupational Safety and Health Review Commission from three to five members. This would allow the Administration to appoint two new commissioners who may not be receptive to workers' interests. This bill was reported out of committee on a 24-20 party-line vote. **Democrats are urged to VOTE NO.**

**H.R. 2730 - Occupational Safety and Health Independent Review of OSHA Citations Act of 2004 (Overturning the Unanimous Supreme Court decision regarding the Review of OSHA Citations Act) (Rep. Norwood - Education & the Workforce) (Subject to a Rule).** This bill would overturn a unanimous 1991 Supreme Court decision that found that Congress



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intended the Secretary of Labor, as the official responsible for enforcing the Occupational Safety and Health Act, to have deference in questions of law relating to OSHA citations. This bill would instead give deference to the Occupational Safety and Health Review Commission (OSHRC), even though the Secretary of Labor and OSHA have greater expertise required to interpret these safety and health standards. This would increase incentives for challenges to the Secretary's rules and interpretations. This bill was reported out of committee on a 24-20 party-line vote. **Democrats are urged to VOTE NO.**

**H.R. 2731 - Occupational Safety and Health Small Employer Access to Justice Act of 2004 (Blocking Access to Justice by Requiring OSHA to Pay Attorney's Fee Act) (Rep. Norwood - Education & the Workforce) (Subject to a Rule).** This bill changes current law to require award of attorney's fees by taxpayers to certain small employers when they prevail in administrative or court proceedings brought by OSHA. These costs would have to be paid even if the Secretary of Labor or the federal government was found "substantially justified" in pursuing the action. This would have a chilling effect on both OSHA enforcement and OSHA standard setting since OSHA may be hesitant to cite employers for violations unless there is absolute certainty that the enforcement action will not be challenged. In addition, current law already permits small businesses to recover litigation costs where the government position was not substantially justified. This bill was reported out of committee on a 24-20 party-line vote. **Democrats are urged to VOTE NO.**

**H.R. 2432 - Paperwork and Regulatory Improvements Act of 2003 (Rep. Ose - Government Reform) (Subject to a Rule).** This bill requires federal agencies to provide annual reports estimating the costs of their regulations and paperwork requirements and to include these costs as part of their budget request to Congress. This bill was reported out of committee by voice vote.

The Rules Committee has recommended the following two amendments be made in order:

- **Ose Manager's Amendment (10 minutes).** This amendment authorizes annual funding for the General Accounting Office's regulatory analysis function (and provides an effective date); and removes the requirement for the Office of Management and Budget to integrate its annual regulatory accounting statement and associated report into the President's fiscal Budget documents. Current law, which requires submission "with" the President's fiscal budget documents, is unaltered.
- **Waxman/Tierney Amendment (20 minutes).** This amendment creates an expert commission to study the politicization of science and make recommendations for how to protect science in the regulatory process from political and ideological manipulation and interference; and seeks to improve the regulatory process by protecting the integrity of science in federal decision-making. **Democrats are urged to VOTE YES.**

#### Postponed Suspension Votes (3 bills):

- 1) **H.R. 3722** - Undocumented Alien Emergency Medical Assistance Amendments of 2004 (Rep. Rohrabacher - Energy & Commerce). H.R. 3722 would impose new burdensome and costly requirements on hospitals and turn doctors and nurses into immigration officers. This bill would also undermine public health care by discouraging immigrants from receiving appropriate and timely care because of fear of deportation. **Democrats are urged to VOTE NO.**
- 2) **H.R. 3740** - To designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building" (Rep. Miller {NC} - Government Reform)
- 3) **H.R. 4176** - To designate the facility of the United States Postal Service located at 122 West Elwood Avenue in Raeford, North Carolina, as the "Bobby Marshall Gentry Post Office Building" (Rep. Hayes - Government Reform)

#### Stenholm Motion to Instruct Conferees on S.Con.Res.95 - Budget Resolution for FY05.

This motion instructs conferees to, within the scope of the conference, reject provisions that provide for an increase in the statutory debt limit. **Democrats are urged to VOTE YES.**

### TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule: On Wednesday, the House will meet at 10:00 a.m. to begin consideration of **H.R. 4200** - National Defense Authorization Act for Fiscal Year 2005 (Rep. Hunter - Armed Services) (Subject to a Rule)

#### Daily Quote...

"For conservatives in the House, it's imperative that we defeat the notion that tax cuts must be paid for."

- Rep. Mike Pence (R-IN), in *CongressDaily* today